

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO et al.,

Defendants.

CIVIL NO. 12-2039 (GAG)

MOTION FOR RECONSIDERATION OF THE COURT'S RESTRICTED ORDERS

TO THE HONORABLE COURT:

COMES NOW Defendants Commonwealth of Puerto Rico and Puerto Rico Police Department (“Defendants”), by and through the undersigned counsel, and respectfully state and pray as follows:

Procedural Summary

1. On December 4, 2018, the Court issued an order appointing Dr. Alejandro Del Carmen to serve as Special Master (“SM”) to the Court pursuant to Fed. R. Civ. P. 53. D.E. 1038.
2. On December 10, 2018, the Court ordered the parties to submit to the Court, on or before January 14, 2019, a proposed agreement including the following: (i) at least three (3) proposed subjects for the SM to analyze and provide implementations to the Court and (ii) a proposed budget for the remainder of fiscal year 2018-2019 and fiscal year 2019-2020. D.E. 1048.
3. In response to the above-referenced order and in light of the federal government shutdown, Plaintiff filed a Motion to Stay the January 14, 2019 deadline. D.E. 1056. The Court granted Plaintiff’s motion and instructed the parties to jointly comply with the Court’s order regarding the proposed agreement no later than ten (10) working days after the end of the government shutdown. D.E. 1057.
4. On January 3, 2019, the Court issued an *Order* vacating the hearing set for January 17, 2019 in light of the federal government shutdown. D.E. 1060.

5. On January 14, 2019, the Court entered a Restricted Order, which informed the parties that the SM would be in Puerto Rico this Thursday, January 17, 2019. D.E. 1072. The Court instructed the defendants to meet with the SM at 9:00 am that day to “discuss areas within the data gathering process that may be preliminarily identified for him to work on.” D.E. 1072.

6. On January 15, 2019, the Court entered a further Restricted Order establishing that the meeting with the SM would be held at 9:30 AM on January 17, 2019 at the Clemente Ruiz Nazario US Courthouse. D.E. 1074.

Reconsideration

7. Rules 59 and 60 of the Federal Rules of Civil Procedure govern the motions for “reconsideration”, which are not expressly recognized by the Rules. These motions are typically treated as motions to alter or amend judgment under Rule 59 or motions for relief from judgments or orders under Rule 60, depending on the date it is filed. *Global Naps, Inc. v. Verizon New England, Inc.*, 489 F.3d 13 (1st Cir. 2007).

Analysis

8. This *Motion for Reconsideration* is respectfully submitted pursuant to FRCP 59(e), requesting that this Honorable Court reconsider its *Orders* at Docket Nos. 1072 and 1074. Defendants posit that a meeting with Dr. Del Carmen is premature at this time.

9. While Defendants do not oppose the appointment of a Special Master in the present case, as a threshold matter, the parties have not yet discussed the proposed agreement regarding the SM’s duties or fees, nor have they reached a consensus on these matters. The undersigned was expecting to confer with the Plaintiff on these important topics prior to discussing the proposed agreement with its client, the PRPB.

10. Meaningful discussions regarding these issues with the Plaintiff will not be possible until after the government shut-down has ended. Also, the USDOJ, as Plaintiff in the present case, is prohibited from stating its position on this Court’s proposal of having data gathering be a topic under the SM’s purview.

The aforementioned should be a subject of discussion between the parties once the furlough ends and as ordered by this Court on December 10, 2018. D.E. 1048.

11. In light of the above stated, Defendants strongly believe that the January 17, 2019 meeting with the SM is premature and would be ineffective and impractical. Therefore, until the scope of the SM's work is delineated by the parties and approved by the Court, as instructed by the Court, the defendants respectfully request this Honorable Court to reconsider its Restricted Orders and vacate the January 17, 2019 meeting with the SM for the reasons hereinbefore set forth.

WHEREFORE, Defendants respectfully requests the Court **GRANT** this motion and enter an order vacating the January 17, 2019 meeting for the reasons set forth herein.

RESPECTFULLY SUBMITTED.

WE HEREBY CERTIFY: That today we have electronically filed the foregoing document with the Clerk of the Court for the District of Puerto Rico, using the CM/ECF system which will send a copy and notification of filing to all counsel of record.

In San Juan, Puerto Rico, this 15th day of January, 2019.

By:

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